

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

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| <p>IN THE MATTER OF:</p> <p>Kraft Heinz Foods Company</p> <p>Muscatine County, Iowa NPDES No. 7048102</p> | <p>ADMINISTRATIVE CONSENT ORDER</p> <p>NO. 2024-WW- 10</p> |
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TO: Carlos Abrams, CEO
1 PPG Pl Ste 3200
Pittsburgh, PA 15222

Kraft Heinz
1357 Isett Ave
Muscatine, IA 52761

CT Corporation, RA
1209 Orange St.
Wilmington, DE
19801

I. SUMMARY

This administrative consent order (Order) is entered into between the Kraft Heinz Foods Company (Kraft) and the Iowa Department of Natural Resources (Department) for the purpose of addressing violations of Kraft’s National Pollutant Discharge Elimination System (NPDES) permit. Kraft neither admits nor denies the contents of this order and enters into it solely for the purposes of settlement.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Caroline Harmening, Environmental Specialist
Iowa Department of Natural Resources
1023 West Madison Street
Washington, Iowa 52353
Phone: 319-653-2135

Relating to legal requirements:

Carrie Schoenebaum, Attorney for the DNR
Iowa Department of Natural Resources
6200 Park Ave. Ste 200
Des Moines, Iowa 50321
Phone: 515-444-8165

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II. JURISDICTION

This Order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 (wastewater) and the rules adopted or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) Chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

Kraft neither admits nor denies the following statement of facts:

1. Kraft operates a wastewater disposal system (WWDS) at the location of Section 26, T77N, R02W in Muscatine County, Iowa. Kraft operates this WWDS pursuant to NPDES permit No. 7048102. Pursuant to this permit, Kraft discharges to Mad Creek, which is a tributary of the Mississippi River.

This permit has effluent limits for the following pollutants: biological oxygen demand five day (BOD5), total suspended solids (TSS), potential Hydrogen (pH) and temperature. This permit requires that monitoring for BOD5 be taken once a month, total residual chlorine (TRC) 3 times per week, TSS once every three months and a visual inspection of the storm water discharge must be done quarterly. And, the permit requires that the results of the monitoring be recorded on forms provided by the Department and submitted to the Department by the fifteenth day following the close of the reporting period, which is the last day of each month.

2. On October 14, 2020, the Department conducted an NPDES inspection of the Kraft WWDS. This inspection included a review of records. The Department reviewed the Discharge Monitoring Reports (DMRs) and documented that between May 18, 2018, through September 2020, numerous effluent limits were exceeded. Furthermore, the following parameters were not monitored at the required frequency: Flow, TRC, BOD, TSS, temperature, pH, and Stormwater.

3. On November 2, 2020, the Department sent Notice of Violations (NOVs) for the above cited violations. Included in each NOV was a summary of the relevant law, the violations, and recommended corrective actions.

4. On February 8, 2024, the Department conducted an NPDES inspection of the WWDS. This inspection included a review of records. During this review the Department documented that from October 2020 through December 2020 the DMRs contained the required effluent monitoring result. The remainder of the DMRs, January 2021 through December 2023 did not include any effluent monitoring data or results.

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5. On February 15, 2024, the Department sent NOVs for the above cited violations. Included in each NOV was a summary of the relevant law, the violations, and recommended corrective actions.

IV. CONCLUSIONS OF LAW

Kraft neither admits nor denies the following conclusions of law:

1. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall adopt rules related to water quality standards, pretreatment standards, and effluent standards. The Commission has adopted such rules at 567 IAC chapters 61 through 64.
2. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged in accordance with rules adopted by the Commission. Additionally, 567 IAC 62.1(1) prohibits the discharge of wastewater into a navigable water unless authorized by an NPDES permit. The above stated facts demonstrate noncompliance with these provisions of law.
3. 567 IAC 64.3(1) prohibits the operation of any wastewater disposal system in violation of a permit issued to that system. The above stated facts demonstrate noncompliance with this provision of law.
4. NPDES permit No. 7048102 page 6 requires effluent monitoring of BOD5, TRC, pH, TSS, temperature, flow and visual monitoring of storm water. The above stated facts demonstrate noncompliance with this provision of law.

V. ORDER

By the execution of this Order, the Department orders and Kraft agrees to do the following:

1. Comply the terms of NPDES permit No. 7048102;
2. Kraft shall pay a penalty in the amount of \$8,000.00 within 30 days of the date the Director signs this Order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.
2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of

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penalties at 567 IAC Chapter 10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative order with an administrative penalty. The administrative penalty is determined as follows:

a. Economic Benefit. 567 IAC chapter 10 requires that the Department consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.30(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.30(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.” An economic benefit was failing to conducted the required monitoring. Therefore, \$3,000.00 is assessed for this factor.

b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Failure to comply with an NPDES permit degrades water quality. Degradation of Iowa’s waterways is a serious problem. Degraded water quality harms aquatic life, prevents the attainment of state water quality goals, and causes a decline in the quality of life generally. Further, the monitoring requirements in NPDES permits are the backbone of this program. Noncompliance with an NPDES permit thwarts the integrity of the NPDES permit and water quality program. Therefore, the amount of \$3,000.00 is assessed for this factor.

c. Culpability. Kraft operates a WWDS. This is a highly regulated activity and therefore it has an obligation to be aware of the applicable regulations and comply with those regulations. Therefore, the amount of \$2,000.00 is assessed for this factor.

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VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly by and with the consent of Kraft. For that reason, it waives its right to appeal this Order or any part thereof.

III. NONCOMPLIANCE

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



On behalf Kraft Heinz Foods Company

Dated this _____ day of
_____, 2024

Kayla Lyon, DIRECTOR
Iowa Department of Natural Resources